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## B I L L

FOR

The Relief of Agricultural Tenants in Ireland.

A.D. 1888.

**W**HEREAS it is expedient to provide for the further relief of agricultural tenants in Ireland:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as the Agricultural Short title. *Tenants (Ireland) Relief Act, 1888.*

2.—(1.) Where, in pursuance of the Land Law (Ireland) Act, No rent to be made payable on tenents improvements. 10 1881 (in this Act herein-after referred to as "the said Act"), any application has been made to the court in the said Act mentioned to fix the fair rent of a holding, the court shall ascertain whether any improvements have been made thereon by the tenant or his predecessors in title for which he or they have not been paid or 15 otherwise compensated by the landlord or his predecessors in title, and shall estimate the extent of any increase in the letting value of the holding resulting from such improvements. Such increase in letting value shall, for the purposes of any such application, be deemed to be the property of the tenant, and no rent shall, in any 20 proceedings under the said Act or this Act, be allowed or made payable in respect thereof.

(2.) The use and enjoyment by the tenant or his predecessors in title of any improvements executed wholly or partly by him or them, or the forbearance of the landlord to charge an increased 25 rent in respect thereof, or to evict the tenant or his predecessors in title from the holding, shall not of itself, in the absence of an express contract on the subject, be deemed a compensation for such improvements within the meaning of the said Act or of this Act.

(3.) So much of the fourth section of the Landlord and Tenant 30 (Ireland) Act, 1870, as enacts that, in awarding compensation to a

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A.D. 1888. tenant in respect of such improvements as are mentioned therein  
 the court therein mentioned shall, in reduction of the claim of the  
 tenant, take into consideration the time during which such tenant  
 may have enjoyed the advantage of such improvements, shall be  
 and the same is hereby repealed. 5

Presumption in respect of improvements. 3. On any application to fix the fair rent of a holding, and for the purpose of all proceedings under the said Act and this Act, all improvements on such holding executed within a period of fifty years prior to the passing of the said Act shall, until the contrary is proved, be deemed to have been made by the tenant or his 10 predecessors in title.

Repeal of 44 & 45 Vict. c. 49, s. 8, ss. 5 and part of s. 58. 4.—(1.) The fifth sub-section of the eighth section of the said Act is hereby repealed as and from the date of the passing of the said Act. 15  
 (2.) The said Act and this Act shall, notwithstanding anything contained in the fifty-eighth section of the said Act, be deemed to apply to any holding let to be used wholly or mainly for the purpose of pasture, if it shall appear that such holding was originally laid down in pasture by the tenant thereof or his predecessors in title at his or their own expense. 20

Definition of "improvement." 5. The term "improvement" as used in the ninth sub-section of the eighth section of the said Act shall be construed to mean any work or agricultural operation executed on a holding, which, being executed, adds to the letting value of the holding, or any expenditure of labour or capital on a holding which adds to the letting 25 value thereof.

Derivative title of tenant. 6. The expression "predecessors in title," as used in this Act and in the said Act, and in the Landlord and Tenant (Ireland) Act, 1870, shall be construed to mean "predecessors in occupancy," when it shall appear to the court in which any proceedings under the said 30 Acts or any of them shall be pending that the justice of the case so requires.

Amendment of definition of "tenant" in said Act. 7. The tenant of any holding shall, within the meaning of the fifty-seventh section of the said Act, be deemed for the purposes of the said Act and of this Act, and as against the landlord of said 35 holding, to be in occupation of same, notwithstanding that a portion of said holding is sublet; provided that the subletting was made prior to the passing of the said Act, and that the tenant was not, prior to any such subletting, prohibited in writing from subletting his holding. Nothing herein contained shall be deemed to affect 40

the rights, under the said Act, or this Act, of any persons holding under any such subletting. A.D. 1888.

8. Notwithstanding anything contained in the fifty-seventh section of the said Act, any tenancy created before the *first day of January one thousand eight hundred and eighty-six*, shall be deemed to be a present tenancy within the meaning of the said Act, and "future tenancy" shall be construed to mean a tenancy beginning after that date.

9. A tenancy subject to statutory conditions shall be deemed to be subject to such conditions for a term of seven years from the commencement of the statutory term, and the statutory term of any judicial tenancy shall expire at a period of seven years from the date of its commencement notwithstanding any provision to the contrary in the said Act.

10. When an application is lodged with the court to fix a fair rent, it shall be in the power of the court, either under the same or under another application of the tenant, to stay all proceedings for the removal of the tenant in respect of nonpayment of rent till the said application is finally determined, upon such terms as to payment of rent or otherwise as the court shall think fit.

In the proceedings on such application the court shall take an account of the amount of arrears of rent due or become due before the application is finally determined, and may take evidence of all the circumstances which have led to such arrears, and shall decide whether in view of such circumstances the whole or what part of such arrears ought to be paid, and whether in one payment or by instalments, and at what dates the same should be paid, and the amount and dates so fixed shall be deemed to be the total amount of arrears due by the tenant, and the terms at which the same become payable.

11. The provision contained in the first section of the Land Law (Ireland) Act, 1887, under which the application of said section is restricted to leases expiring within ninety-nine years after the passing of the said Act, is hereby repealed.

12. The seventh section of the Land Law (Ireland) Act, 1887, is hereby repealed.

13. From and after the passing of this Act any occupier of land in Ireland claiming any common of turbary, or any right of turbary as appurtenant to such land, or as annexed or belonging thereto, or used or enjoyed therewith, or as included in the right of tenancy of such occupier in any manner whatsoever, having proved to

A.D. 1888. the satisfaction of the court or judge that the occupiers of such land have, in the course of the customary management of the estate of which such land forms part, enjoyed either for a period of ten years least before the commencement of the action or for ten years ending in the year *one thousand eight hundred and eighty-one*,<sup>5</sup> the right claimed, or any like right, custom, license, or usage of turbary, on any part or parts of the same estate, the court or judge may thereupon either give judgment for the plaintiff, with costs, or make such other order as in all the circumstances of the case may seem just.<sup>10</sup>

*Right of  
turbary in  
cases of  
application  
for "judicial  
rent."*  
54 & 55 Vict.  
c. 49.

14. When any application is made to the court to fix a fair rent according to the provisions of the said Act, 1881, or of any Act amending the same, in respect of any holding, the court shall in every case inquire as to the rights, customs, licenses, or usages of turbary which have been enjoyed in the course of the customary management of the estate by the occupier of the holding, and if it shall appear to them that the occupier would have had a reasonable expectation of continuing in the enjoyment of any turbary if he had not applied to the court, then the court shall make an order granting to him a right of common of turbary to such extent and under such conditions as to the court may seem just, and such right shall thereafter be deemed to be for all purposes appurtenant to the said holding.

*Deduction  
from judicial  
rent in  
certain cases.*

15. In fixing the fair rent the court shall have power to take any such rights of turbary granted by it under the last preceding section into account; but if it shall appear to the court that there is not on or connected with the estate a sufficient amount of turf or bog to allow of the full exercise of all rights of turbary for the full period of seven years at least, the then court shall deduct from the judicial rent a proportionate sum as the rent due in respect of turbary, which shall be called bog rent, and the said bog rent shall be payable for so many years only as the court may direct: Provided always, that the tenant shall in that case be entitled to the rights of turbary granted by the court only so long as the said bog rent continues to be payable.<sup>35</sup>

*Application  
for right of  
turbary after  
judicial rent  
has been  
determined.*

16. If the tenant of any holding as to which a judicial rent has, before the passing of this Act, been determined under the provisions of the said Act, in addition to the powers provided for in section seventeen of the said Act, the tenant may at any time apply to the court in the manner for the time being prescribed to declare the right of turbary, if any, belonging to his holding; and if on the hearing of such application it be proved to the satisfaction of

the court that the tenant has in connexion with or after his application to fix a judicial rent been refused the enjoyment of any turbary as to which he had such a reasonable expectation of continuance as is in section herein-before described, then the court may make an order granting to him a right of common of turbary as in the same section provided, in the same manner as if proceedings for the determination of a judicial rent were still pending.

17. Where in the case of any order made under the last preceding section it shall appear to the court that the actual or probable refusal of turbary was brought expressly to the notice of the court at the time of fixing a judicial rent for the holding, and that the judicial rent was in fact fixed upon the basis of such refusal, then the court may, if under all the circumstances it appears just, add to the judicial rent a proportionate sum by way of hog rent, which shall thereafter be deemed to be for all purposes part of the judicial rent so determined as aforesaid.

18. Except in so far as the said Act is expressly altered or amended by this Act, or is inconsistent therewith, this Act and the said Act shall be construed together as one Act. Any words or expressions which are not hereby defined, and are defined in the said Act, shall, unless there is something in the context of this Act repugnant thereto, have the same meaning as in the said Act. The fifty-eighth section of the said Act as amended by this Act, and the twenty-second section of the said Act respectively, shall be deemed to be incorporated with this Act.

Addition to  
judicial rent  
in certain  
cases.

This Act  
and Land  
Law (Ire-  
land) Act.  
1881, to be  
construed as  
one Act.

## Agricultural Tenants (Ireland) Relief.

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## For the Relief of Agricultural Tenants in Ireland.

(Prepared and brought to by  
Mr. Elmer, Mr. Sawyer, Mr. W. C. Conard, Mr. Johnson,  
Mr. F. G. Davis, and Mr. Warren Nichols.)

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Published by The House of Commons, at their Printed Office, 1858.

#### **REFERENCES AND NOTES**

and the first year of the reign of King Edward I, from  
1272 and approximately 1273. The author, John  
H. and G. Johnson, have, however, dated it to  
approximately 1270.

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